

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON MCGUIRE,

Plaintiff,

CIVIL ACTION NO. 06-CV-15356-DT

vs.

DISTRICT JUDGE PAUL D. BORMAN

COUNTRYWIDE HOME
LOANS, INC., et al.,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

_____/

REPORT AND RECOMMENDATION

RECOMMENDATION: Plaintiff's Motion for Default Judgment (docket no. 18) should be
DENIED.

Plaintiff, proceeding *pro se*, seeks a default judgment pursuant to Fed. R. Civ. P. 55 against all Defendants because they have purportedly failed to properly plead or otherwise defend this civil action. (Docket no. 18). Plaintiff did not sign this motion. Plaintiff's motion contains no certificate of service showing service on any Defendant. There is therefore no response from any Defendant.¹ This matter has been referred for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). (Docket no. 22). The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). The matter is now ready for ruling.

This motion should be denied for several reasons. First, it is procedurally defective. The motion is subject to being stricken under Fed. R. Civ. P. 11(a) because Plaintiff did not sign it. In addition, there is no certificate of service showing that it was served on any Defendant as required by

¹ All Defendants have filed a Motion to Dismiss in which they assert that they have not been properly served. (Docket no. 25).

Fed. R. Civ. P. 5(a), (d). Second, and of a more substantive nature, Plaintiff has not shown that he has properly effected service of the Summons and Complaint on any Defendant. It is only after proper service that a party is required to answer or otherwise respond, or risk default. Fed. R. Civ. P. 12(a). Plaintiff fails to state how he has effected service on any Defendant in his affidavit. (Docket no. 19). He has submitted several certificates of service (docket nos. 13-17, 27) showing that he has attempted service by mail. However, none of the return receipts shows receipt by a Defendant. Rule 4(e), Fed. R. Civ. P., allows service of the Summons and Complaint pursuant to the law of the state in which the district court is located or in which service is effected. Plaintiff has failed to show that he properly made service under the relevant laws. Accordingly, for all of these reasons, Plaintiff's Motion for Default Judgment should be denied.

NOTICE TO PARTIES REGARDING OBJECTIONS:

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n Of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Any objections must be labeled as "Objection #1," "Objection #2," etc. Any objection must recite *precisely* the provision of this Report and Recommendation to which it pertains. Not later than ten days after service of an objection, the opposing party must file a concise response proportionate to the

objections in length and complexity. The response must specifically address each issue raised in the objections, in the same order and labeled as “Response to Objection #1,” “Response to Objection #2,” etc.

Dated: June 12, 2007

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Report and Recommendation was served upon Jason McGuire and Counsel of Record on this date.

Dated: June 12, 2007

s/ Lisa C. Bartlett
Courtroom Deputy